

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

NEW ENGLAND CARPENTERS HEALTH
BENEFITS FUND; PIRELLI ARMSTRONG
RETIREE MEDICAL BENEFITS TRUST;
TEAMSTERS HEALTH & WELFARE FUND OF
PHILADELPHIA AND VICINITY;
PHILADELPHIA FEDERATION OF TEACHERS
HEALTH AND WELFARE FUND; DISTRICT
COUNCIL 37, AFSCME - HEALTH &
SECURITY PLAN; JUNE SWAN; BERNARD
GORTER; SHELLY CAMPBELL and
CONSTANCE JORDAN,

Plaintiffs,

v.

FIRST DATABANK, INC., a Missouri corporation,
and McKESSON CORPORATION, a Delaware
corporation,

Defendants.

Civil Action: 1:05-CV-11148-PBS

Judge Patti B. Saris

**DEFENDANT MCKESSON CORPORATION'S MOTION FOR LEAVE
TO FILE UNDER SEAL**

McKesson respectfully moves this Court for leave to file under seal Exhibits A and E to the Surreply Declaration of Paul Flum in Opposition to Plaintiffs' Motion to Compel RelayHealth Data (the "Flum Surreply Declaration"). The material at issue in this motion is: (1) a portion of a document filed under seal in its entirety by plaintiffs, who represented that the document contains information designated "Confidential" or "Highly Confidential" by plaintiffs and third parties; and (2) a portion of a transcript of a third party witness deposition taken on May 27, 2008. McKesson submits this motion in accordance with its obligations under the April 11, 2006 Protective Order governing this litigation.

In support of this motion, McKesson states as follows:

1. Exhibit A to the Flum Surreply Declaration consists of excerpts from the April 21, 2008 Declaration of Raymond Hartman in Support of Certification of the Class of Cash Payers (“Hartman Declaration”). Plaintiffs submitted the Hartman Declaration under seal in its entirety. In their motion for leave to file the Hartman Declaration under seal, plaintiffs represented that it references, quotes from, or includes information from “documents and/or excerpts from documents that certain third parties have identified as ‘CONFIDENTIAL’ or ‘HIGHLY CONFIDENTIAL’ pursuant to the terms of the April 11, 2006 Protective Order.” (Docket No. 485 at 1-2.) Plaintiffs also represented that the Hartman Declaration references or includes information from “documents that contain plaintiffs’ confidential medical information.” (*Id.*)

2. Exhibit E to the Flum Surreply Declaration consists of excerpts from the transcript of the May 27, 2008 deposition of Michael C. Cannata, the designated Rule 30(b)(6) representative of third party Rx-Net.

3. Paragraph 13 of the April 11, 2006 Protective Order mandates that a deponent be allowed 30 days to designate portions of the deposition transcript as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” and that, pending such designation, the entire deposition transcript shall be deemed “HIGHLY CONFIDENTIAL.” The 30-day period for Rx-Net to make such designations of the deposition transcript has not yet lapsed.

4. Paragraph 14 of the April 11, 2006 Protective Order mandates that any document or pleading containing confidential material be filed under seal. McKesson hereby seeks to comply with the terms of the Protective Order governing this litigation.

WHEREFORE, McKesson respectfully requests that this Court grant it leave to file under seal Exhibits A and E to the Flum Surreply Declaration.

Respectfully submitted,

McKesson Corporation
By its attorneys:

/s/ Paul Flum

Melvin R. Goldman (*pro hac vice*)
Lori A. Schechter (*pro hac vice*)
Paul Flum (*pro hac vice*)
Tiffany Cheung (*pro hac vice*)
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482
Telephone: (415) 268-7000
Facsimile: (415) 268-7522
Email: PaulFlum@mofo.com

John Kiernan
Stephen E. Hughes
Bonner Kiernan Trebach & Crociata
200 Portland Street
Suite 400
Boston, MA 02114
Telephone: (617) 426-3900
Facsimile: (617) 426-0380

Dated: May 30, 2008

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

I, Paul Flum, counsel of record for defendant McKesson Corporation, hereby certify that McKesson's counsel conferred with counsel for plaintiffs in an effort to resolve the issue referred to in this motion, and that plaintiffs do not oppose this motion.

/s/ Paul Flum

Paul Flum

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party through the Court's electronic filing service on May 30, 2008.

/s/ Paul Flum

Paul Flum

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NEW ENGLAND CARPENTERS HEALTH BENEFITS FUND; PIRELLI ARMSTRONG RETIREE MEDICAL BENEFITS TRUST; TEAMSTERS HEALTH & WELFARE FUND OF PHILADELPHIA AND VICINITY; PHILADELPHIA FEDERATION OF TEACHERS HEALTH AND WELFARE FUND; DISTRICT COUNCIL 37, AFSCME - HEALTH & SECURITY PLAN; JUNE SWAN; BERNARD GORTER; SHELLY CAMPBELL and CONSTANCE JORDAN,

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[PROPOSED] ORDER GRANTING MCKESSON CORPORATION'S MOTION FOR LEAVE TO FILE UNDER SEAL

McKesson Corporation seeks leave to file under seal documents filed in connection with its Surreply in Opposition to Plaintiffs' Motion to Compel RelayHealth Data. Those documents contain information provided by plaintiffs and a third party that is confidential or highly confidential to plaintiffs and that third party. The Court, having considered all documents in support and opposition hereto, hereby GRANTS McKesson's Motion for Leave to File Under Seal the documents attached as Exhibits A and E to the Surreply Declaration of Paul Flum in Opposition to Plaintiffs' Motion to Compel RelayHealth Data.

IT IS SO ORDERED.

DATED: _____

Hon. Robert B. Collings
United States District Court, Magistrate Judge